IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 37 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH
and
Hon'ble MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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KALINDI INVESTMENTS PVT.LTD.

Versus

COMMISSIONER OF INCOME TAX

Appearance:

1. INCOME TAX REFERENCE No. 37 of 1990
MR RK PATEL for Petitioner No. 1
MRS MONA BHATT for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE K.A.PUJ

Date of decision: 03/07/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE K.A.PUJ)

At the instance of the assessee, the following question is referred for the opinion of this Court:-

"Whether on the facts and in the circumstances of the case, the claim on account of interest was allowable?"

2. Heard Mr RK Patel, learned counsel appearing for the applicant and Mrs. Mona Bhatt, learned Standing Counsel appearing for the revenue.

3. While drawing the statement of case, the Tribunal has referred to the earlier years' order of the Tribunal passed in assessee's own case in Reference Application Nos.330 to 332/Ahd/88 dated 18-7-88, arising out of the Tribunal's order in ITA Nos. 367 to 369/Ahd/84 for the assessment years 1978-79 to 1980-81. The statement of case drawn in the said reference applications gave rise to Income-tax Reference No.122 of 1988 and this Court has decided the said reference on 11-12-2001. The said reference covers three assessment years and this Court after discussing elaborately the necessary facts and submissions of the respective parties and also perusing the orders passed by the authorities below has come to the conclusion that the assessee's claim on account of interest was not allowable. The question referred to the Court was answered in the negative i.e. in favour of the revenue and against the assessee.

4. In the present reference, the facts are similar and no distinguishing feature is pointed out to us. Following the aforesaid judgment of this Court in assessee's own case, we also take the same view and hold that the assessee's claim on account of interest was not allowable.

5. We, therefore, answer the question referred to us in the negative i.e. in favour of the revenue and against the assessee.

6. The Reference is accordingly disposed of with no order as to costs.

(M.S. Shah,J) (K.A. Puj,J)

zgs/-